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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,308	07/31/2001	Kazuhiro Namba	F-7101	3754

7590

02/25/2004

Jordan and Hamburg
122 East 42nd Street
New York, NY 10168

EXAMINER

MOSSER, ROBERT E

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 02/25/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,308

Applicant(s)

NAMBA ET AL.

Examiner

Robert Mosser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 13-15 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-15, 18-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawing figures 10 and 15 were received on October 27th 2003. These drawings are accepted.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 9, 13-15, 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ng (US 5,971,855) in view of Yen (US 5,890,963) in further view of Junkin (US 5,846,132).

Regarding claims 1-3, 13-15, and 18-21, Ng teaches allowing two game players to engage in competition (See Col 4:6-8) of individually trained original characters (See Col 5:46-51) using two terminal apparatuses connected to a server through a network (See Col 2:38-50), allowing each competing game player control the movement of their original characters and displaying the result of these movements on the monitor of terminal apparatus of both players via a server (Applicant referenced as: *the Internet*

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Website) (See Col 7:42-51). However, Ng is silent on the storage of game character(s) on the server or the loading of said character from the server and the use of physical characteristic data based on age and the altering of this characteristic data dependent on the monitored passage of time regardless of player participation in the game.

Yen teaches the use of the server for preserving the game character information (Applicant referenced as: *player's data*)(Col 5:45-49) in a multiplayer computer game. Yen further teaches the obtaining the game program from another server and the storing of this program in the memory (Applicant referenced as: *memory medium or installation*) of the server or client (Applicant referenced as: *terminal apparatuses*) and the execution of this game program (See Col 2:40-45).

It would have been obvious to one of ordinary skill in the art, at the time of invention to download the game of Ng or to store the characters of Ng, from or on a server in light of the teachings of Yen, in order to provide an additional level of protection against players tampering with their characters skills or attributes or alternatively to create a back-up copy of their character or game on a remote computing device or allow the updating of game software as taught by Ng (Col 3:56-67).

Junkin teaches a fantasy sports game including the use of real time player statistics for the determination of a character's ability and player created teams which compete with other player teams (See Col 6:6-53 & Col 7:28-52). This process is understood as to include the age of a character and the associated performance (athletic ability) of the character as dependent on the age as they reflect in part the performance of an actual sports figure and their respective performance, which is

commonly known to follow the pattern of increased and decreased ability associated with age. The factor of age progressing for an actual sports figure regardless whether or not players are participating in the game is presumed to be performed in the mere process of the server tracking time as well as the tracking and use of current professional sports statistics including age associated with said sports statistics by the server. As such as time progresses the age and performance of a player changes which is then reflected in his performance as recorded in his current sports statistics and relied upon by the server.

It would have been obvious to incorporate the age tracking features of Junkin in the in the game of Ng/Yen in order to increase the realism in the game through the incorporation of real world performances while allowing the players to develop an aspect of their character unique to themselves and in game performances.

Regarding claims 4 and 5, and in addition to the above stated. The game of Ng/Yen teaches the ranking of players (See Ng Col 3:64-65) and assigning different rewards dependent on the opponent's skill level compared to the challengers (See Ng Col 7:66-8:21 65). However Ng/Yen is silent on the use of a characters rank as a controlling factor for allowing competition between players. Junkin teaches using the rank of a character or player teams of characters to control competition between players as well as player teams (See Junkin Col 11:6-17 & Col 14:5-14).

It would have been obvious to one of ordinary skill in the art, at the time of invention to utilize a character/team ranking system as taught by Junkin in the game of

Ng/Yen, in order to avoid disparity between the advanced participant and the beginner
(See Col 2:10-25)

Regarding claims 6 and 7, and in addition to the above stated. The game of Ng/Yen teaches the creation of multiple independent original characters by a player (See Ng Col 5:41-51) Junkin teaches the formation of teams (See Junkin Col 1:16-35) for the competition between players.

It would have been obvious to incorporate the player teams of Junkin in the in the game of Ng/Yen in order to allow the player to utilize group tactics or sports related maneuvers.

Regarding claim 9 and in addition to the above stated. Ng teaches the allowing both players to view the beginning of a combat move in order to allow the opposing player to enter the correct blocking move (See Col 7:50-51). This reads on "same screen is displayed on monitor screens of said terminal apparatuses of said game players".

5. Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ng (US 5,971,855) in view of Yen (US 5,890,963) in further view of Junkin (US 5,846,132) as applied to claim 1 above, and in further view of McNaughton et al (US 5,796,393).

The game of Ng/Yen/Junkin teaches allowing players to interact or fight (See Ng Col 4:6-9). However Ng/Yen/Junkin are silent on the method of this interaction and

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how the player initiates a competition or equivalently a fight. McNaughton et al teaches the use of a message boards (See Col 8:43-65) as well as player invitation for use with multiplayer online games including those that use multiple player teams (See Col 7:1-14).

It would have been obvious to one of ordinary skill in the art, at the time of invention to utilize message boards in the game of Ng/Yen/Junkin, in light of the teachings of McNaughton et al, in order to allow players a convenient method for arranging competitive games against other players.

6. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ng (US 5,971,855) in view of Yen (US 5,890,963) in further view of Junkin (US 5,846,132) as applied to claim 1 above, and in further view of Hanai (US 5,816,920).

The game of Ng/Yen/Junkin teaches allowing players to interact or fight (See Ng Col 4:6-9). However Ng/Yen/Junkin are silent on the viewpoint or perspective of the players during competition. Hanai teaches the use of viewpoint or multiple perspectives (See Figure 1) in a multiplayer game.

It would have been obvious to one of ordinary skill in the art, at the time of invention to utilize multiple view points in the game of Ng/Yen/Junkin, in light of the teachings of Hanai, in order to give players a perspective view during game play.

Response to Arguments

7. The new title is clearly indicative of the invention to which the claims are directed and as such this matter is no longer of issue.

8. Applicant's amendments to the drawing including figures 13 and 15 and filed on October 27, 2003, have been fully considered and are accepted for correcting the deficiencies previously indicated. Accordingly the previous objection under 37 CFR 1.83(a) directed towards the subject matter of claims 4, 5, and 7 has been withdrawn.

9. Applicant's amendments regarding claim informalities in claims 1, 9, 10, and the cancellation of claim 11, filed October 27, 2003 are found to be sufficient. Accordingly the examiners previous objections to the above claims are withdrawn.

10. Applicant's arguments (see page 14 paragraph 3 through page 15 paragraph 2) filed October 27, 2003, with respect to the lack of enablement of the claimed ranking system have been fully considered and are persuasive. The previous rejection 35 USC 112 first paragraph of claims 4 and 5 has been withdrawn.

11. Applicant's amendments to claims 1-10, and 13-15 and cancellation of claims 11-12, filed October 27, 2003, with respect to rejections presented under 35 USC 112 second paragraph have been fully considered and are found to be sufficient. Accordingly the rejection under 35 USC 112 second paragraph of claims 1-10, and 13-15 has been withdrawn.

12. Applicant's arguments with respect to claims 1-10, 13-15, and 18-21 have been considered but are moot in view of the new ground(s) of rejection.

The applicant's arguments regarding the character aging process affecting the characters physical characteristics such as athletic ability and physical strength not being present in the Ng reference on page 17 of the amendment filed October 27, 2003, are noted. However it would seem that the following statements teach the opposite conclusion:

- a. the retirement of Ng's fighter "due to old age" after 30 days (Col 7:38-40)
- b. "he lives for an additional day" (Col 7:40-41)
- c. "the game is over when" (Col 7:38)

At the conclusion of the game, Ng's character may have retired due to old age and as such the character's strength (Col 8:9-10) is effectively zero and as such has changed over time without required inter action from the player as so presented.

Further the applicant's remarks directed toward the Yen reference on page 17 of the amendment filed October 27, 2003 seem to be directed towards a feature of persistent character aging not shown in the reference are also noted. However, the previously stated rejection relied on the Yen reference to display the passage of time in a game environment or continuity in said game environment irregardless of participation by a user. As Yen teaches this in addition to the altering of the game data related to the player in a stock market type game through the passage of time regardless of participation by a user the combination of the Yen and Ng reference teach the alteration of character data (such as age as taught by Ng), in combination as per the rejection

presented in the office action entered June 27th 2003. Though it may be argued that the Ng reference teaches this passage of time as detailed above this argument was not relied upon in the previous rejection only to aid in the clarity of the rejection.

In conclusion the character of Ng teaches the presence of an aging character with attributes that may be considered to change at the conclusion of a time period measured in days (retirement) and may be understood to encompass this feature alone. While the teaching of Yen's persistent game world displays a clear measurement and alteration of game data regardless of user interaction and in combination with Ng provides an obvious and clear combination.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

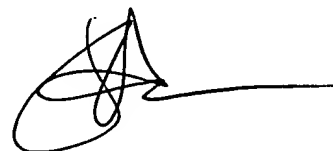
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM
February 19, 2004

A handwritten signature in black ink, appearing to be 'J. Harrison', with a long horizontal line extending to the right.

JESSICA HARRISON
PRIMARY EXAMINER